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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,523	07/02/2003	Hisanobu Kanamaru	09637/000M888-US0	4557
7278	7590	11/06/2006	EXAMINER	
DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			LE, HUNG CHARLIE	
			ART UNIT	PAPER NUMBER
			3663	

DATE MAILED: 11/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/613,523	Applicant(s) KANAMARU ET AL.	
	Examiner Hung C. Le	Art Unit 3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 15 is/are pending in the application.
- 4a) Of the above claim(s) 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 8, 10 - 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>various</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "...a hole..." (Claims 3, 4, 7, 8) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the

next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 12 & 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 1:

The term "...about a common axis." is unclear. It is not known what all is meant and encompasses by the terms "about" and "common" as what standards compared to. Therefore, they make the claim indefinite.

With respect to claim 12:

The term " ...vertical plane intersects..." is vague. It is not known what all is meant and encompasses by the term as ~~2~~ pluralities of vertical planes exist.

Therefore, it makes the claim indefinite.

With respect to claim 13:

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The term "...about a vertical plane..." and "...about a common axis..." is unclear. It is not known what all is meant and encompasses by the terms "about" and "common" as what standards compared to. Therefore, they make the claim indefinite.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 – 8, 10 – 15 (Claim 9 was cancelled by applicant) are rejected under 35 U.S.C. 102(b) as being anticipated by Juergen [EP1075931, Abstract attached].

With respect to claim 1: Juergen (Abstract, Figs. 1 – 2, Claims) discloses: A drive device (1) for a mechanical press with a two-step speed reduction mechanism for driving a slide of the mechanical press comprising: a drive pinion (Fig. 1) provided concentrically with a crankshaft; a main gear mounted on said crankshaft (25, 25'); intermediate gears (28, 29) meshing with said drive pinion; and intermediate pinions meshing with said main gear (27, 27'); a drive shaft (3, 6) connected to said drive pinion; wherein a plurality of said intermediate gears and said intermediate pinions

are concentrically provided with each other, and said drive shaft and said crankshaft rotate about a common axis.

While patent drawings are not drawn to scale, relationships clearly shown in the drawings of a reference patent cannot be disregarded in determining the patentability of claims. See In re Mraz, 59 CCPA 866, 455 F.2d 1069, 173 USPQ 25 (1972).

With respect to claims 2 & 6: Juergen (Abstract, figs. 1 – 2, Claims) further discloses: a second set of intermediate gears, wherein said intermediate gears and said second set of intermediate gears are located on opposite sides of said drive pinion in symmetric positions; and a second set of intermediate pinions, wherein said intermediate pinions and said second set of intermediate pinions are located on opposite sides of said main gear on symmetric positions.

With respect to claims 3, 4, 7 & 8: Juergen (Abstract, figs. 1 – 2, Claims) further discloses: Wherein said drive shaft (3, 6) includes an end on which said drive pinion is provided, and said drive shaft rotatably engages a hole formed on an end of said crankshaft in order to support another end of the drive shaft.

With respect to claim 5: Juergen (Abstract, figs. 1 – 2, Claims) discloses:

A drive device (1) for a mechanical press with a two-step speed reduction

Mechanism for driving a slide of the mechanical press comprising: a drive pinion provided concentrically with a crankshaft 25, 25'); a main gear mounted on said crankshaft; intermediate gears meshing with said drive pinion; intermediate pinions meshing with said main gear; and a brake (48) comprising: a break shaft; and a brake pinion formed on said brake shaft and meshing with said intermediate gears, wherein a plurality of said intermediate gears and said intermediate pinions are concentrically provided with each other..

With respect to claims 10 & 14: Juergen (Abstract, figs. 1 – 2, Claims) further discloses: A flywheel (47) transmitting rotational motion to said drive pinion, wherein said drive shaft penetrates through said flywheel and said main gear.

With respect to claims 11 & 15: Juergen (Abstract, figs. 1 – 2, Claims) further discloses: A single flywheel (47) transmitting rotational motion to said drive pinion, wherein said drive shaft penetrates through said flywheel.

With respect to claim 12: Juergen (Abstract, figs. 1 – 2, Claims) further discloses: Wherein the vertical plane intersects the drive pinion.

With respect to claim 13: Juergen (Abstract, figs. 1 – 2, Claims) discloses: A drive device (1) for a mechanical press with a two-step speed reduction mechanism for driving a slide of the mechanical press comprising: a drive pinion provided

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concentrically with a crankshaft (25, 25'); a main gear mounted on said crankshaft; intermediate gears meshing with said drive pinion; and intermediate pinions meshing with said main gear; a drive shaft (3, 6) connected to said drive pinion; wherein a plurality of said intermediate gears and said intermediate pinions are concentrically provided with each other, the intermediate gears are symmetric to each other about a vertical plane, and said drive shaft and said crankshaft rotate about a common axis.

6. The statements of intended use or field of use, e.g., "for driving, wherein, etc..." clauses are essentially method limitations or statements of intended or desired use. Thus, these claims as well as other statements of intended use do not serve to patentably distinguish the claimed structure over that of the reference.

See In re Pearson, 181 USPQ 641; In re Yanush, 177 USPQ 705; In re Finsterwalder, 168 USPQ 530; In re Casey, 512 USPQ 235; In re Otto, 136 USPQ 458; Ex parte Masham, 2 USPQ 2nd 1647.

See MPEP § 2114 which states:

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ 2nd 1647

Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than functions. In re Danly, 120 USPQ 528, 531.

Apparatus claims cover what a device is not what a device does. Hewlett-Packard Co. v. Bausch & Lomb Inc., 15 USPQ2d 1525, 1528.

As set forth in MPEP § 2115, a recitation in a claim to the material or article worked upon does not serve to limit an apparatus claim.

Response to Arguments

7. Applicant's arguments filed 08/10/2006 have been fully considered but they are not persuasive.

Applicant's drive shaft and crankshaft are as claimed " rotate about a common axis" Which is interpret as not on the same axis, therefore they are must be in parallel axes which is the same situation as in the cited reference.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed,

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and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung C. Le whose telephone number is 571-272-8757. The examiner can normally be reached on M-F: 07:30am - 05:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack W. Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HCL


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